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*Attorney for Plaintiff*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE

LAWRENCE BECK, a married man,

Plaintiff,

v.

CITY OF SIERRA VISTA, an  
incorporated municipality; JOHN  
DOES and JANE DOES I-X and  
MARRIED COUPLES; ABC  
PARTNERSHIPS XI-XX and/or XYZ  
CORPORATIONS XXI-XXX,

Defendants.

No.

**COMPLAINT**

**(Tort Non-Motor Vehicle)**

Tier 3 Case

Assigned to:

Plaintiff Lawrence Beck ("Plaintiff"), by and through his attorney, David Dwyer, Esq., and for his complaint against Defendants, states and alleges as follows:

1. Plaintiff resides part-time, and at all relevant times resided, in Cochise County, Arizona. Plaintiff also resides in the state of Washington.
2. Defendant City of Sierra Vista ("Defendant") is an incorporated municipality located within Cochise County and the State of Arizona.
3. Defendant John Does and Jane Does I-X are those persons who were, at all relevant times, employees or agents of the named Defendant, or had, at all relevant times, a relationship with the named Defendant, and whose acts or omissions give rise

1 to legal responsibility for the damages and injuries incurred by Plaintiff, but whose true  
2 identities are at the present time unknown to Plaintiff. These persons are hereby  
3 notified of Plaintiff's intention to join them as defendants when and if additional  
4 investigation or discovery reveals that such inclusion is appropriate.

5 4. Defendant ABC Partnerships XI-XX and/or XYZ Corporations XXI-  
6 XXX, inclusive, are fictitiously named herein for Defendants and for  
7 employees/agents of Defendant, which Defendant may later be joined herein at such  
8 time as their correct identities become known.

9  
10 5. This Court has jurisdiction over the subject matter and these parties.  
11 Venue and jurisdiction are proper in the Superior Court for and in Cochise County,  
12 Arizona.

13 6. Pursuant to Ariz.R.Civ.P. Rules 8 and 26.2(c)(3), the above captioned  
14 case should be classified as a Tier-3 case.

15  
16 7. Defendant City of Sierra Vista received a timely and properly served  
17 *Notice of Claim* letter pursuant to A.R.S. §12-821.01. This *Complaint* incorporates by  
18 reference the allegations contained in the *Notice of Claim* as if fully set forth herein.

19 8. Plaintiff's offer contained in the *Notice of Claim* was not accepted,  
20 allowing for the filing of this legal action.

21 9. On November 12, 2018, Plaintiff was riding his bicycle in a north-  
22 easterly direction on E. Charleston Road approaching its T-intersection with Fighting  
23 Colt Drive. The hard and stable surface on the shoulder/bike path/bike lane of the  
24 roadway turns into loose gravel without any indication or warning, which caused  
25 Plaintiff to suffer a fall, resulting in injuries, damages, and losses, as referenced herein.

1           10.    Upon information and believe, Defendant City of Sierra Vista was and is  
2 responsible for the design, construction, and maintenance, and safety of Charleston  
3 Road in the subject area, so as to make and keep it reasonably safe for travel.  
4 Defendant is responsible for the design, construction, maintenance, and safety,  
5 including warning signs for those rightfully using the road, as the road is within  
6 Defendant's geographical boundaries and/or as a result of an Inter-Governmental  
7 Agreement(s) which may exist.

8           11.    Defendant failed to properly design, construct, repair and/or maintain  
9 the subject area of Charleston Road within generally accepted engineering principals  
10 and within the standard of care, creating and unreasonably dangerous condition for  
11 those using the road, such as Plaintiff.

12           12.    Defendant knew or should have known that the design, construction,  
13 repair and/or maintenance of the subject area of Charleston Road was not in compliance  
14 with generally accepted engineering principals, which created an unreasonably  
15 dangerous condition to such users of the roadway.

16           13.    Defendant's failure to properly design, construct, repair and/or maintain  
17 the subject area of Charleston Road within generally accepted engineering principals  
18 and within the standard of care, and failure to recognize that the design, construction,  
19 repair and/or maintenance of the subject area of Charleston Road was not in compliance  
20 with generally accepted engineering principals, constitutes negligence, which  
21 negligence was a proximate cause of Plaintiff's injuries, damages, and losses, as  
22 referenced herein.

23           14.    Defendant owed a duty of care to the public, such as Plaintiff, to  
24  
25

1 reasonably inspect the roadway for defects and unreasonably dangerous conditions, and  
2 generally, to keep the roadway/track system in proper repair, all toward the safety and  
3 protection of the public.

4 15. Defendant breached this duty by failing to either conduct a reasonable  
5 inspection of the roadway as required by law, and/or by failing to observe, detect, or  
6 find upon reasonable inspection (if one was done), warn, and/or remedy, the defect(s)  
7 and/or dangerous condition(s); either way, Defendants breach of duty constitutes  
8 negligence, which negligence was a proximate cause of Plaintiff's injuries, damages,  
9 and losses, as referenced herein.  
10

11 16. Defendant is liable for the unreasonably dangerous condition that  
12 caused Plaintiff's injuries, damages, and losses, as referenced herein, because it  
13 created, or caused to be created, the subject unreasonably dangerous condition;  
14 namely, the loose gravel in the portion of the roadway properly and legally used by  
15 Plaintiff.

16 17. As a further direct and proximate result of Defendant's breaches of duty  
17 and negligence, Defendant is liable to Plaintiff for incurred damages to his bicycle and  
18 loss of use of his bicycle in an amount to be determined at trial.  
19

20 18. Defendant's activities and responsibilities are, at least in part, outlined  
21 and addressed in certain ordinances and other codified standards. These include, but are  
22 not limited to: the City of Sierra Vista/Arizona Code of Ordinances, Title XV, §150,  
23 *et seq.*; and the Maricopa Association of Governments *Uniform Standard*  
24 *Specifications and Details for Public Works Construction* (2015 Edition), Sections  
25 101, 104, 107, 330, *et seq.*

19. Defendant's acts and omissions, as referenced herein, were in violation of these codified standards, and as such, constitute negligence *per se*, which proximately and legally caused Plaintiff's injuries, losses, and damages, as referenced herein.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

A. In such a monetary amount as will reasonably and adequately compensate Plaintiff for his injuries, losses, and damages, both general and special, as determined by a jury.

B. For compensatory damages in an amount deemed to be just and reasonable to compensate Plaintiff for general and special damages suffered as a direct and proximate result of Defendants' negligence, described above;

C. For all taxable costs of suit; and

D. For such other relief as this Court and jury deems just and proper.

RESPECTFULLY SUBMITTED this 8<sup>th</sup> day of November, 2019.

DWYER HERNANDEZ, P.C.

By: /s/ David J. Dwyer  
David J. Dwyer  
***Attorney for Plaintiff***

**Copies** of the foregoing e-filed  
this 8<sup>th</sup> day of November, 2019, with:

Cochise County Superior Court  
State of Arizona

By: /s/ Fabiola DeVries